

DIRECTING THE SECRETARY OF STATE TO TRANSMIT TO THE  
HOUSE OF REPRESENTATIVES DOCUMENTS IN THE  
POSSESSION OF THE SECRETARY OF STATE RELATING TO  
THE TREATMENT OF PRISONERS AND DETAINEES IN IRAQ,  
AFGHANISTAN AND GUANTANAMO BAY

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MARKUP  
BEFORE THE  
COMMITTEE ON  
INTERNATIONAL RELATIONS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

ON

**H. Res. 699**

JULY 15, 2004

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IRAQ, AFGHANISTAN AND GUANTANAMO BAY**

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**THURSDAY, JULY 15, 2004**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INTERNATIONAL RELATIONS,  
*Washington, DC.*

The Committee met, pursuant to call, at 3:15 p.m., in Room 2172, Rayburn House Office Building, Hon. Henry J. Hyde (Chairman of the Committee) Presiding.

Chairman HYDE. The Committee will come to order. Pursuant to notice, I now call up H. Res. 699, directing the Secretary of State to transmit to the House of Representatives documents in the possession of the Secretary of State relating to the treatment of prisoners and detainees in Iraq, Afghanistan and Guantanamo Bay for purposes of markup and move its adverse recommendation to the House.

[H. Res. 699 follows:]

108TH CONGRESS  
2D SESSION

## H. RES. 699

Directing the Secretary of State to transmit to the House of Representatives documents in the possession of the Secretary of State relating to the treatment of prisoners and detainees in Iraq, Afghanistan, and Guantanamo Bay.

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### IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2004

Mr. CONYERS (for himself, Ms. PELOSI, Mr. HOYER, Mr. MENENDEZ, Mr. CLYBURN, Mr. DINGELL, Mr. OBEY, Mr. RANGEL, Mr. WAXMAN, Mr. SKELTON, Mr. LANTOS, and Mr. HINCHEY) submitted the following resolution; which was referred to the Committee on International Relations

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## RESOLUTION

Directing the Secretary of State to transmit to the House of Representatives documents in the possession of the Secretary of State relating to the treatment of prisoners and detainees in Iraq, Afghanistan, and Guantanamo Bay.

1       *Resolved*, That the Secretary of State is directed to  
2 transmit to the House of Representatives not later than  
3 14 days after the date of the adoption of this resolution  
4 all documents in the possession of the Secretary of State,  
5 except those documents that have been found by a court  
6 to be protected by Federal Rule of Criminal Procedure

1 6(e), relating to the treatment of prisoners or detainees  
2 in Iraq, Afghanistan, or Guantanamo Bay and any req-  
3 uisite instructions for handling such documents,  
4 including—

5 (1) every report, memorandum, or complaint  
6 from the International Committee of the Red Cross  
7 relating to the treatment of detainees or prisoners  
8 and any documents that reference such memo-  
9 randum, report, or complaint by the Secretary of  
10 State or by any agency under the Secretary of State;

11 (2) every report, memorandum, or complaint  
12 from Human Rights Watch, Amnesty International,  
13 Iraqi Human Rights Association, Afghan Human  
14 Rights Commission, Physicians for Human Rights,  
15 or Human Rights First relating to the treatment of  
16 detainees or prisoners and any documents that ref-  
17 erence such memorandum, report, or complaint by  
18 the Secretary of State or by any agency under the  
19 Secretary of State;

20 (3) every document relating to interrogation  
21 techniques;

22 (4) every internal report of a law enforcement,  
23 military, or intelligence agency or organization con-  
24 cerning interrogation or detention operations;

1           (5) every internal report of a law enforcement,  
2           military, or intelligence agency in response to allega-  
3           tions that the treatment of prisoners or detainees  
4           violated or continues to violate international or  
5           American law;

6           (6) every document and memorandum regard-  
7           ing the applicability of the Geneva Conventions, the  
8           Convention Against Torture and Other Cruel, Inhu-  
9           man or Degrading Treatment or Punishment, the  
10          International Covenant on Political and Civil Rights,  
11          sections 2340–2340A of title 18, United States  
12          Code, the War Crimes Act of 1996, and the Fifth,  
13          Eighth, and Fourteenth Amendments to the Con-  
14          stitution of the United States to the treatment of  
15          prisoners or detainees;

16          (7) every document and memorandum relating  
17          to command relationships between military police  
18          units and military intelligence units;

19          (8) every document and memorandum directing  
20          personnel to abstain from using specific interroga-  
21          tion techniques or to withdraw themselves from in-  
22          terrogations being conducted by other departments;

23          (9) any Presidential directive or other writing  
24          authorizing the use of interrogation tactics or claim-  
25          ing the constitutional authority to do so;



1           (10) any documentation of training received by  
2 the 800th Military Police Brigade and the 205th  
3 Military Intelligence Brigade regarding the treat-  
4 ment of prisoners or detainees;

5           (11) any documentation of special access pro-  
6 grams as they were applied to prisoners or detain-  
7 ees;

8           (12) all records of meetings regarding the treat-  
9 ment of prisoners or detainees at which one or more  
10 officials of the Department of State were present  
11 and the presence of those officials is apparent from  
12 the face of the record;

13           (13) every document and memorandum con-  
14 cerning the practice of keeping prisoners or detain-  
15 ees off the official roster;

16           (14) a list of every ongoing and completed in-  
17 vestigation into the treatment of prisoners or detain-  
18 ees, and any written reports produced by any such  
19 investigation;

20           (15) every document relating to civilian con-  
21 tract employees and their role in prisons;

22           (16) all written statements of prisoners or de-  
23 tainees, military personnel, civilian employees of the  
24 Federal Government, or civilian contractors regard-  
25 ing the treatment of prisoners or detainees;

1           (17) all reports of interrogation of each pris-  
2           oner or detainee that reflect a claim of abuse by  
3           military or civilian personnel or by civilian contrac-  
4           tors;

5           (18) any documents for work under contracts  
6           (including subcontracts and task orders) and all re-  
7           ports on such documents, for interrogation or trans-  
8           lation work by CACI International, Titan Corpora-  
9           tion, and any other entity that may have performed  
10          such work;

11          (19) any documents or testimony presented to  
12          or prepared by the Detainee Assessment Branch at  
13          Abu Ghraib prison at any time after September 1,  
14          2003 regarding the treatment of Iraqi prisoners or  
15          detainees by members of the Armed Forces or by ci-  
16          vilian contractors working in Iraq employed on be-  
17          half of the Department of Defense;

18          (20) any complaint forms filled out and sub-  
19          mitted at any time after March 1, 2003 by a mem-  
20          ber of the Armed Services or by a civilian contractor  
21          employed on behalf of the Department of Defense or  
22          Central Intelligence Agency regarding the treatment  
23          of detainees or prisoners; and

7

6

- 1 (21) any reports or documents reflecting the
- 2 death or injury of prisoners or detainees.

○

Chairman HYDE. Without objection, the resolution will be considered as read and open for amendment at any point.

The Chair yields himself 5 minutes for purposes of a statement. Today, the Committee will consider H. Res. 699, directing the Secretary of State to transmit to the House documents in the possession of the Secretary of State relating to the treatment of prisoners and detainees in Iraq, Afghanistan and Guantanamo Bay.

The revelation of the abuse of Iraqi detainees shocked and horrified Americans. We are people of compassion and strong moral conviction. Citizens of the U.S. have a profound love of freedom and a great respect for the rule of law. Our system of constitutional government is anchored in these values, and that is what that distinguishes us from other countries that suppress freedom, democracy and the rule of law.

And so it is because of our strongly held moral beliefs and our respect for the rule of law that investigations into detainee abuse must take place, probing questions must be asked, and steps must be taken to ensure that these types of abuses never recur. And this, in fact, is exactly what is ongoing today.

On January 14, 2004, the day after specialist Joseph Darby placed an anonymous note describing photographs of abuse under the door of an Army criminal investigator, General Sanchez launched a criminal investigation immediately. General Ricardo Sanchez then asked for an administrative review of procedures at the Abu Ghraib facility, what has since become known as the Taguba report completed by Major General Taguba.

It is this report, including all of the classified annexes, which is laid out before you on the table today and which runs into thousands of pages. This report is available to all Members of our Committee for their review. There are well over 140 criminal investigations into detainee abuse worldwide that are ongoing, thus far resulting in criminal or administrative actions against at least 12 individuals. These include the relief from duty of those in the prison chain of command and criminal referrals of several soldiers directly involved in abuse.

In addition to this remarkable number of criminal investigations, there are six ongoing administrative investigations into the detainee scandal. Among these six is an independent bipartisan review panel led by former Secretary of Defense James Schlesinger, including former Secretary of Defense Harold Brown who served with distinction in President Carter's Administration. The purpose of the Schlesinger panel is to get the Members' "independent, professional advice" on issues which the panel members find to be "most pertinent" to the detainee allegations.

Significant to the interest of this Committee, the panel members will "examine the pace, breadth and thoroughness of the existing investigations and determine whether additional investigations need to be initiated." In other words, this is a bipartisan investigation of the investigations.

The specific issues the Schlesinger panel will report on are wide-ranging and include, to name but a few, of the use of contractors, policies and procedures for detentions and interrogations, compliance with the Geneva Conventions, and the relationship with the International Committee of the Red Cross.

As Chairman Hunter—as his letter to me indicates, the Administration has committed to briefing Members on this Committee on all six of the ongoing administrative investigations and, in the interest of transparency, to providing access to the reports when they are completed. The Administration will also brief our Members on the criminal investigations on a periodic basis upon request.

In fact, the Administration has already provided to Congress a mound of documents from the administrative reports of Major Generals Ryder and Miller to the Taguba report, which alone is 6,000 pages. The White House has also taken the extraordinary step of releasing approximately 260 pages of high-level documents, all of which are available to Members of this Committee, that reflect the thorough and deliberative process which the Administration undertook in developing its policies as our country waged the global war on terror.

The Administration is also committed to providing Members of our Committee access to reports from the International Committee of the Red Cross relating to detainee issues worldwide. I am informed those reports should be available next week.

I will not address in depth some of the peculiarities of the resolution before us today, other than to note that the majority of the documents described are best requested of the Secretary of Defense or the Director of Central Intelligence, or involve evidence in ongoing criminal investigations, and do not in any way involve the Secretary of State.

Members of the Committee, we currently have enough reading material to keep us ensconced for the first 2 weeks of the August recess, with more to come.

I urge Members to first review the documents that are in congressional possession now, including the Taguba Report, to review the International Committee of the Red Cross reports as they are made available to us in the coming days and to avail themselves of the opportunity to review the six administrative investigations as they are completed, before demanding reams more.

I urge Members to take the time to carefully read these materials and review the results of the six ongoing investigations, especially the Schlesinger panel, before determining what more is necessary. It is not as if these matters are not being adequately investigated in a transparent manner—quite the contrary. What we are witnessing is an unprecedented range of criminal and administrative investigations, all of which in turn will be evaluated by a blue ribbon panel. We should allow these investigations the time needed to be completed.

In the meantime, we should not divert further Executive Branch resources and energy in the midst of a global war. When these investigations are complete, and the Schlesinger panel reviews the issues and the adequacy of the other investigations, our Committee Members will have ample opportunity to pass judgment on whether the ongoing investigations unearthed all the facts and made persuasive judgments.

When this time arrives and we have all the completed investigations before us, our Committee Members will be in a position to judge the Schlesinger panel report, along with the other five administrative and the 140-plus ongoing criminal investigations, and

determine whether they measure up to the high standard of justice first expressed by our founding father George Washington in his General Order of July 7, 1775, when he said,

“No Connections, Interests or Intercessions . . . will avail to prevent strict execution of Justice.”

We certainly must push forward efforts to remedy the circumstances that allow the abuses at Abu Ghraib to occur. We certainly must—and—we owe it to the hundreds of thousands of soldiers who serve our country with honor and dignity, and we owe it to the American people. I urge Members to vote to adversely report H. Res. 699.

And I turn to my friend and colleague, Tom Lantos, the Ranking Democrat Member, for his opening remarks.

[The prepared statement of Mr. Hyde follows:]

PREPARED STATEMENT OF THE HONORABLE HENRY J. HYDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS, AND CHAIRMAN, COMMITTEE ON INTERNATIONAL RELATIONS

Today the Committee will consider H. Res. 699, directing the Secretary of State to transmit to the House of Representatives documents in the possession of the Secretary of State relating to the treatment of prisoners and detainees in Iraq, Afghanistan, and Guantanamo Bay.

The revelation of the abuse of Iraqi detainees shocked and horrified Americans. We are a people of great compassion and strong moral conviction. Citizens of the United States have a profound love of freedom and a great respect for the rule of law. Our system of constitutional government is anchored in these values, and it is these values that distinguish the United States from those countries that suppress freedom, democracy and the rule of law.

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In addition to this remarkable number of criminal investigations, there are six ongoing administrative investigations into the detainee scandal. Among these six is an independent, bipartisan review panel, led by former Secretary of Defense James Schlesinger and including former Secretary of Defense Harold Brown who served with distinction in President Carter's administration.

The purpose of the Schlesinger panel is to get the Members' "independent, professional advice" on issues which the *panel members* find to be "most pertinent" to the detainee allegations. Significant to the interests of this Committee, the panel members will "examine the pace, breadth, and thoroughness of the existing investigations, and determine whether additional investigations need to be initiated." In other words, this is a *bi-partisan investigation of the investigations*.

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It is not as if these matters are not being adequately investigated in a transparent manner—quite the contrary. What we are witnessing is an unprecedented range of criminal and administrative investigations, all of which in turn will be evaluated by a blue ribbon panel. We should allow these investigations the time needed to be completed.

In the meantime, we should not divert further executive branch resources and energy in the midst of a global war. When these investigations are complete, and the Schlesinger panel reviews the issues and the adequacy of the other investigations, our Committee Members will have ample opportunity to pass judgment on whether the ongoing investigations unearthed all the facts and made persuasive judgments.

When this time arrives and we have all the completed investigations before us, our Committee Members will be in position to judge the Schlesinger panel's report, along with the other five administrative and the 140-plus ongoing criminal investigations, and determine whether they measure up to the high standard of justice first expressed by our founding father, George Washington, in his General Order of July 7, 1775: "No Connections, Interests, or Intercessions . . . will avail to prevent strict execution of Justice."

We certainly must push forward efforts to remedy the circumstances that allowed the abuses at Abu Ghraib to occur. We certainly must—and—we owe it to the hundreds of thousands of soldiers who serve our country with honor and dignity, and we owe it to the American people. But the end goal of assuring that these types of abuses never reoccur will not be accomplished through this Resolution of Inquiry.

I urge Members to vote to adversely report H. Res. 699.

I now turn to my friend and colleague, Tom Lantos, the Ranking Democratic Member, for his opening remarks.

Mr. LANTOS. Thank you, Mr. Chairman and let me first commend you for your typical serious, thoughtful and comprehensive statement.

Mr. Chairman, I am sure that every Member of this Committee agrees that the disgusting pictures of Iraqi detainees being abused by members of our military was a disgrace. It was wholly inconsistent with the character of our Nation and the nature of our military. It has been an embarrassment to our Government, to our brave and dedicated troops in the field and to each of us.

The question before us is, how will this Committee address such despicable acts? Mr. Chairman, in the aftermath of this episode, the Senate Armed Services Committee embarked on a thorough in-

quiry of this scandal, including hearing from the author of the original investigation of the Abu Ghraib Prison. I understand our friend Senator Warner is planning future hearings as well.

It would seem obvious that such aberrant behavior would be ripe for a serious and full-ranging investigation by this House. And I thought the various Committees of jurisdiction would be the focal point of the investigation for our body.

Regrettably, no such investigation has taken place. In fact, despite repeated requests by the Democratic leadership and Ranking Members of the relevant Committees, including myself, Members of the majority leadership have repeatedly said that an investigation is unwarranted and have criticized the Chairman of the Senate Armed Services Committee for asserting a proper role for Congress.

Mr. Chairman, the position of the majority leadership is simply unacceptable. When the work of Government goes as far astray as it apparently has in this case, it is palpably clear that the legislative branch needs to exert more authority to provide both direction and oversight.

This affair has damaged our country's credibility. It undermines U.S. ability to promote human rights, to prevent torture, and it crippled our efforts to advance peace in the Middle East. To counteract these perceptions, we have to ensure that we thoroughly investigate these matters and be seen as doing so. Damage to our foreign policy of this magnitude can only be corrected by a full, independent investigation that is perceived as credible and relentless, including up the chain of command to the highest levels.

Indeed, the recent replacement of General Fay with yet another officer in the investigation of actions of military intelligence officers has not been held in this regard. It raises further questions of who is looking at the actions on the civilian side.

Mr. Chairman, the memoranda from the Department of Justice issued in August 2002 that have recently come to light highlight the need for an inquiry into this matter. These memos, which claim that the President can ignore U.S. Law and treaty obligations preventing torture and cruel, inhumane and degrading treatment, represent a usurpation of power by the Executive Branch written by lawyers who act as if they were arguing their case in court rather than giving the President their best advice.

One aspect of this affair which demands our attention is the apparent unwillingness of the Department of Justice to consult with U.S. Government experts on international law, the Office of the Legal Advisor at the Department of State. It appears, Mr. Chairman, that after the State Department disagreed with the Justice and Defense Departments on the application of the Geneva Conventions to detainees in Afghanistan and at Guantanamo Bay, the Justice and Defense Departments decided not to consult State on these critical issues of international law.

Mr. Chairman, we cannot allow a system of Government where experts are ignored and the President receives uninformed legal advice. Mr. Chairman, this is not an esoteric lawyer's argument. When our Justice Department says it is legal to torture others, our enemies will point to our own statements to justify the maiming and killing of Americans. That is why we enter into and abide by



international treaties of these types to help hold all others to the higher standard we believe in.

In the light of the majority leadership's refusal to sanction any investigation, we, on our side, have submitted identical resolutions of inquiry to each of the major Committees to help these Committees, hopefully on a bipartisan basis—and I want to underscore this. I don't believe this is a partisan matter.

I hope we can move on this matter on a bipartisan basis to obtain documents necessary to conduct our own investigation. The need to shed light on these documents should be self-evident, especially in the body commonly known as the People's House. Senators from both parties have been living up to their responsibilities and calling the Administration to account for its policies. I fail to understand why all my colleagues in the House of Representatives do not see that this is the right thing to do.

I hope that all of my colleagues on the Committee will step up to our Constitutional responsibilities by supporting this resolution and voting against the motion to report the resolution unfavorably.

I thank you, Mr. Chairman, for your giving me the courtesy of the time.

Chairman HYDE. Thank you, Mr. Lantos.

Mr. Leach, the Chair will recognize Members for 5 minutes should they wish to make an opening statement. Should they not wish to make a statement, they get a gold star. Is Mr Leach—

Mr. LEACH. Gold star.

Chairman HYDE. Gold star for Mr. Leach.

Mr. Bereuter?

Mr. BEREUTER. I second the motion.

Chairman HYDE. Mr. Bereuter?

Mr. BEREUTER. I am a gold star Member.

Chairman HYDE. Gold star for Mr. Bereuter.

The next name is Mr. Gallegly.

Mr. GALLEGLY. I would like a gold star, Mr. Chairman.

Chairman HYDE. Thank you. You shall have a big one.

Mr. Houghton?

Gold star for you.

Mr. McCotter?

Mr. MCCOTTER. No.

Chairman HYDE. Ms. Ros-Lehtinen?

Ms. ROS-LEHTINEN. Silver star.

Chairman HYDE. We are on a roll, if you don't mind.

Mr. LANTOS. I am enjoying this, Mr. Chairman.

Chairman HYDE. Mr. Chris Smith?

Mr. SMITH OF NEW JERSEY. Mr. Chairman, I want to take 1 minute, and I want to commend you on your very thoughtful statement.

This is a very difficult issue. I would point out to my colleagues, there is an absolute consensus among all Members that torture, inhumane, cruel, degrading treatment is an abomination and not acceptable. The fact that you pointed out that there are six ongoing investigations, including an investigation of the investigations, suggests that some delay in this very broad reach of request is warranted. If we find that these investigations are somehow inferred,

I would recommend that we do proceed with a more thorough investigation as articulated in the resolution.

I would also point out that the Convention against torture couldn't be more clear. No exceptional circumstances whatsoever whether a state of war, threat of war, political instability or any other public emergency may be invoked as a justification of torture. And an order from a superior officer or public authority may not be invoked as a justification for torture. We are signatories to that. I do believe that the overwhelming majority of American service men and women, and everyone else through the chain of command abides by that.

Those bad apples that have committed these atrocities will be held to account. There are investigations that are ongoing. And I would say to my friends and colleagues, if anybody takes away from this markup that we don't want the full truth, you are greatly mistaken. There are 164 detainee abuse investigations, like I said. There are six ongoing administrative investigations. There is a time to say, the investigations are ongoing and they are pervasive, they are thorough, but if they are found to be less than that, then we need to take additional action.

Mr. BEREUTER. Would the gentleman yield?

I would like to turn in my gold star because I think people could have the wrong impression. And I thank the gentleman for yielding.

I think the Congress does less oversight than it should including on this issue. I think the minority is right in pushing for documentation to be released.

But as I looked at the resolution—and I understand the gentleman saying you are doing it in all relevant Committees, this is misdirected to the Secretary of State. If you go over these, paragraph by paragraph, they are DoD documentation or they are CIA documents that are in demand. There is only one of them that relates specifically, as I read it, to the State Department.

And I do think that number 12 is overly burdensome, because it says all records of all meetings regarding the treatment of prisoners or detainees at which one or more officials of the State Department were present. The presence of those officials is apparent from the face of the record. Meetings of this nature were held on numerous occasions by numerous officials and personnel levels. This is a matter that ought to be taken very seriously in the Intelligence Committee and in the Armed Services Committees of both bodies, but this is not an issue that we have with the Secretary of State.

And I understand there is probably a recognition that this is a fact, but you are simply aiming at all Committees that potentially might have some oversight.

Mr. LANTOS. Would my good friend yield for a second?

Mr. BEREUTER. In a second.

And I will point out to the Members that before us are two letters from Defense Department personnel, including Secretary Rumsfeld, in one case, directed to Chairman Hunter and to Chairman Hyde indicating those reports that are going to be or are already made available that relate to this resolution.

[The information referred to follows:]



SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

JUL 15 2004

The Honorable Duncan Hunter  
Chairman  
Committee on Armed Services  
U.S. House of Representatives  
Washington, D.C. 20515-6035

Dear Chairman Hunter:

Thank you for the opportunity to respond to House Resolution 689. The Department of Defense has presented, or is preparing to present as they become available, the following reports and information to the Congress:

1. Reports received by the Department of Defense from the International Committee of the Red Cross (ICRC) concerning the treatment of detainees.
2. Briefings and reports on at least six major investigations ongoing within the Department of Defense, including:
  - a) Major General Fay's review of military intelligence and contractor interrogation procedures;
  - b) The assessment by the Army Inspector General on overall doctrine and training of detention operations;
  - c) Brigadier General Jacoby's review of detainee operations and facilities in Afghanistan;
  - d) Vice Admiral Church's investigation into detention operations and detainee interrogation techniques;
  - e) The Army Reserve Command assessment of reserve training, with a special focus on Military Intelligence and Military Police functions;
  - f) The Schlesinger Panel independent review into the pace, breadth, and thoroughness of the investigations and whether additional investigations need to be initiated.
3. The Department will also continue its practice of periodically updating Members on the status of relevant criminal investigations.

Over the last 34 legislative days, Department witnesses, including the Deputy Secretary and me, have testified at 15 hearings, conducted 31 Member briefings, and 25 staff briefings. Additionally, the Department has forwarded to Congress 75 documents, comprising several thousand pages, and has declassified

several interrogation memorandums for the record. We have briefed or met with 285 Members regarding the treatment and detention of persons under the control of the Department of Defense.

It is almost certain additional information will come to light that we have not anticipated and which will call for further investigation. However, we have tried to be expansive in the investigations we have initiated, and are ready to initiate others should the facts suggest the need to do so. Further, we have tried to be forthcoming with the Congress and, where appropriate, the media and general public with respect to our activities and initial findings.

Sincerely,

A handwritten signature in black ink, appearing to read "R. M. Gates". The signature is fluid and cursive, with a long horizontal stroke at the end.

cc: Honorable Henry J. Hyde  
Chairman, Committee on International Relations



PRINCIPAL DEPUTY UNDER SECRETARY  
OF DEFENSE  
2000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-2000



JUL 15 2004

POLICY

Honorable Henry Hyde  
Chairman, Committee on International Relations  
House of Representatives  
Washington, DC 20515

Dear Chairman Hyde:

I am writing to provide assurance that upon a request from the Committee, the Department of Defense is prepared to make available for review to Members and staff directors all information contained in reports from the International Committee of the Red Cross (ICRC) relating to Iraq.

Should other reports from the ICRC on Iraq be transmitted to the Department, we will make that information available to the Committee as well.

Sincerely,

Ryan Henry

Mr. BEREUTER. So you are having some impact, or you have had some impact, or they are ahead of us on some of these issues. And I yield to the gentleman.

Mr. LANTOS. I thank my friend for yielding. I would merely like to point out respectfully that many of the issues do in fact relate to the Department of State. They certainly relate to the Department of State in terms of these abuses having had an impact on the success of U.S. foreign policy.

And at a time when we are living with a new regime on our side in Iraq, having moved from Ambassador Bremer's jurisdiction to that of Ambassador Negroponte, who is a regular Ambassador of the State Department appointed by our Government as all other Ambassadors are, the State Department is directly involved in this matter, particularly the fact that the matter is an ongoing concern and ongoing set of negotiations.

So while I have great respect for my friend from Nebraska, with all due respect, I would say that our Committee is not just seemingly involved; we are at the center of this issue, because what happened at the prison has had a major impact on U.S. foreign policy.

Thank you for yielding.

Mr. BEREUTER. Would the gentleman yield?

I failed to notice before that it was Mr. Smith's turn to yield to the gentleman from California. I would just say, specific documentation is requested and that documentation, with one exception, is not from the State Department.

I grant the gentleman's very valid argument that what has happened abroad is very much in our jurisdiction. But as far as the request for documentation, they are not properly placed to the State Department, and therefore, this is a resolution that really is not appropriate for this Committee to advance.

I thank the gentleman for yielding.

Chairman HYDE. The gentleman's time has expired.

Mr. Menendez?

Mr. MENENDEZ. Thank you, Mr. Chairman.

Mr. Chairman, today we are charged with a sacred trust given to Congress by the founding fathers and the American people to serve as a check and balance on the Executive Branch. As part of that role, Congress was designed to be the watchdog of the executive. Congressional oversight of the Executive Branch is a non-partisan issue.

Congressional oversight should be a bipartisan issue. For example, on July 19 of 1999, Chairman Dreier quoted Lee Hamilton, the former Democratic Chairman of this very Committee. Chairman Hamilton had said:

"Oversight is designed to throw light on the activities of Government. It can protect the country from the imperial presidency and from bureaucratic arrogance. It can expose and prevent misconduct and maintain a degree of constituency influence in an Administration. The responsibility of oversight is to look into every nook and cranny of Government affairs."

And Chairman Dreier then concurred with his Democratic colleague. He said:

"I wholeheartedly agree with our former distinguished former colleague, as Chairman of the Committee that is charged with the responsibility of safeguarding the privileges and prerogatives of this esteemed institution, I believe Congress should vigorously conduct oversight in order to fulfill the legacy of our founding fathers which is ultimately to preserve and protect our fragile democracy."

And I wholeheartedly agree with Chairman Dreier. Today, almost exactly 5 years later from those moments, U.S. soldiers have been accused of torturing prisoners. High-level Administration officials may have set a policy that encouraged that abuse. This scandal has unfairly hurt United States soldiers in Iraq and elsewhere around the world who risk their lives everyday and who would never engage in these despicable acts. Clearly, the situation not only merits congressional investigation but demands a thorough and comprehensive congressional investigation involving every Committee of jurisdiction.

Does it not merit congressional oversight when our Justice Department has written a memo arguing that physical acts can only be considered torture when the physical pain results in "organ fail-

ure, impairment of bodily function or death”? Does it not merit congressional oversight when the White House counsel is urging the Administration to circumvent the Geneva Convention by making Taliban and al Qaeda detainees exempt from the Convention statutes? Does it not merit congressional oversight, particularly by this Committee, when the White House ignored memos written by the Secretary of State that the decision to circumvent international law would undermine the protection of our troops?

Does it not merit congressional oversight when we still don’t know the full extent of what happened? New allegations surfaced just yesterday. *The Washington Times* reported that the Red Cross suspects that the United States is still hiding detainees from them.

Does it not merit congressional oversight when this Administration has shown over and over a blatant disrespect for Congress, and it will try to thwart congressional investigation on this issue? Let me cite a few examples. First, Attorney General Ashcroft initially refused to give Congress the Justice Department’s memo on torture, saying that the President needed to get confidential advice from his Attorney General. And then, the Administration didn’t notify Congress of the existence of these pictures, and the Administration did not willingly turn over the Taguba report. And the Administration has even tried to thwart a member of their own party that has not allowed certain members of the Administration to testify before Chairman Warner’s Committee.

We owe it to the American people and to the troops who are risking their lives around the world to fully investigate this matter. Failure to do so actually endangers our troops and our citizens around the world. The Geneva Convention and international norms exist to keep our own citizens and soldiers as well from being tortured by our enemies.

The resolution along with the two others referred to Armed Services and Judiciary would require the Administration to provide the documents relating to the abuse of prisoners at Abu Ghraib and other places in Iraq and Afghanistan as well as Guantanamo so the Congress can conduct a comprehensive investigation. To me, another Member who would oppose it is shocking. The Republican leadership’s position opposing any investigation goes against the principles of the Constitution and the values of the American people.

And as it relates to references to criminal investigations, I would say that that never stopped the majority from having a wide range of investigations of the Clinton Administration and carrying about the consequences of the uses of executive resources. I urge all the Members of this Committee from both parties to recall the words of both of our colleagues to “fulfill the legacy of the founding fathers and to ultimately preserve and protect our fragile democracy” by voting against the Chairman’s motion to report the resolution unfavorably and voting for the resolution.

Chairman HYDE. Mr. Weller? You have no statement?

Mr. PENCE?

Mr. PENCE. No statement.

Chairman HYDE. Mr. Rohrabacher?

Mr. ROHRABACHER. I will take the gold star rather than jumping into the political waters that seem to be swirling through this Committee room.

Chairman HYDE. Ms. Lee?

Ms. LEE. Thank you, Mr. Chairman.

Let me briefly just say I fully support this resolution of inquiry, and I want to thank our colleague from Detroit and Ranking Member of the Judiciary Committee and all the co-sponsors for authoring this very important resolution of inquiry.

Now, we have all seen the horrifying pictures of American soldiers tormenting and humiliating Iraqi prisoners, and we all know that this behavior does not characterize the tens of thousands of American soldiers, but it does endanger their lives. These pictures are horrifying because of the callous disregard for human rights that they show by individual American soldiers but also for the far more fundamental failures at the highest of leadership, failures that began with an Administration that actually, I believe, misled the Nation into war under false pretenses.

So this resolution asks for the Secretary of State to transmit documents which are in the possession of the Secretary of State relating to the treatment of prisoners and detainees in Iraq, Afghanistan and Guantanamo Bay. It makes sense. I think that it would help us restore much lost credibility in the world. It is a resolution that this Committee deserves to pass because we need the documents. We need the memos. We need to be able to read what took place and understand this.

I don't believe we have gone far enough in restoring America's credibility in the world. It impacts our foreign policy, and I think this resolution helps begin to rectify some of the many difficult issues we are faced with throughout the world. We need to move on this resolution, and I urge the Committee, Mr. Chairman, to support it.

And thank you, and I yield the balance.

Chairman HYDE. The Committee will stand in recess pending two votes on the Floor. As soon as the votes are over, if the Members would return we can conclude our business.

Recess is declared.

[Recess.]

Chairman HYDE. Ms. Berkley is recognized for 5 minutes.

Ms. BERKLEY. Thank you Mr. Chairman.

I am sure that every Member of this Committee agrees that the abuse of Iraqi detainees by members of the United States military was a disgrace. It is really inconsistent with the character of our Nation and the nature of our military. It has been an embarrassment for our Government, our brave and dedicated troops in the field and for each of us.

The first evidence of these heinous acts was called to the attention of Defense Secretary Donald Rumsfeld several months before it became public. Alarming and abundant documentation of horrific treatment of prisoners was provided to the Department of Defense by military personnel, the International Red Cross, Amnesty International and other sources. Yet, here we are months later.

Mr. BURTON. I wish to be recognized—

Chairman HYDE. Order.



Ms. BERKLEY. May I continue?

Chairman HYDE. Yes, you may.

Ms. BERKLEY. Here we are facing the same questions that we were several months ago. Who was making policy for the treatment of detainees at the prison, the military or unidentified intelligence personnel? Who was in charge? What was the chain of command? How far up the chain of command was their knowledge of the abuse? How could discipline break down among the troops without the senior officers knowing about it?

The confusion grows about who was responsible and who will ultimately be held accountable except for a handful of low-ranking Reserve troops. There have been apologies by Administration officials from the President on down, but I get no sense that the key questions are being answered or that anyone in senior command or policy-making positions will be held appropriately accountable. The basic fact is that we still do not know what really went on.

Regrettably, no investigation has taken place. In fact, Members of the Republican leadership have repeatedly said that an investigation is unwarranted and have criticized the Chairman of the Senate Armed Services Committee for asserting a proper oversight role for Congress.

Even if the Administration's investigations are ongoing, Congress should not be prevented from conducting its own inquiry.

Mr. Chairman, if this Congress can investigate the Enron scandal in the middle of an SEC criminal investigation, we should certainly be able to investigate this horrendous series of events. Congress must exercise its proper oversight role. The American people and the world deserve to know the truth about what has transpired. If we are to regain our credibility in the international community, restore our national honor, this is the least we must do, and I say that knowing that the abuses on the other side have been nothing short of horrific. That doesn't mean that the United States has to stoop to that level as well.

I want to thank you, and I yield back the balance of my time.

Chairman HYDE. Mr. Burton.

Mr. BURTON. Thank you, Mr. Chairman.

I will just take a minute. As far as I know—and I think there may be more—there are at least six investigations going on right now. And one of the things that bothers me when I hear the rhetoric from my colleagues, many of whom I have great admiration for, on the other side, when they use terms like heinous acts and horrific treatment.

You know, when I think of horrific treatment, I think of taking somebody and burning them alive in a car and blowing them up or taking them and having them sit in a chair in front of a bunch of people, one of which has a machete, that are going to chop his head off. Now that is what I consider a heinous act.

There is no question that what went on in the prison should not have taken place. And we should hold those who were involved accountable. But there are investigations going on. We don't need to have a whole bunch of additional investigations. And when we describe what went on in that prison, we should also talk about the horrible things that have been done to Americans and others over there that are not being mentioned.

I haven't been here all that long but I haven't heard people say anything about the beheading of Americans and other people and dragging bodies around the streets to try and discourage people from staying there to fight against terrorist activities and threatening to behead another person so that a country like the Philippines will pull their troops out. So if we are going to talk about the things that went on in the prison, then let us make sure there is some balance here. Heinous acts, horrific treatment in my opinion don't apply nearly as much to what we did as what has been going on with the terrorists over there with beheading and doing horrible things to people that are trying to bring about freedom and democracy in Iraq.

Mr. MENENDEZ. Would the gentleman yield?

Mr. BURTON. I will be happy to yield to my buddy.

Mr. MENENDEZ. Thank you.

I don't disagree with you on the comments about the heinous acts. But prior to that, you mentioned that, because there are investigations that we shouldn't investigate, and if I recall, the distinguished Chairman, that did not impede him from pursuing what he thought were legitimate investigations into the previous Administration. So I would hope that that would not impede us in this case as well.

Mr. BURTON. Many of the investigations we conducted did not follow five or six other investigations, but we were just searching for the truth and the six investigations—

Mr. MENENDEZ. And we are searching for the truth here.

Mr. BURTON. And the six investigations that are going on right now are searching for the truth.

Chairman HYDE. The truth is your time has expired.

Mr. Schiff.

Mr. SCHIFF. Thank the Chairman.

I want to join in the comments of my colleague from Nevada who points out the great many tens of thousands of Americans that are serving with distinction, bravery and courage in Iraq, Afghanistan and around the world.

And I don't disagree with the comments echoed by my colleague about the atrocities committed by the other side, the awful grim medieval beheadings that we have witnessed all too frequently, but of course, that is not what we are debating here today.

What we are debating is Congress' oversight responsibility or, as the case would have it, its lack of oversight in the present Congress. I find it remarkable. I think the last time we had a motion like this before us was whether Congress would look into the potential outing of a CIA agent over dissatisfaction with what her husband had to say on a claim that appears in the State of the Union address that had been bogus, and we could not investigate that, and we couldn't request the documents in that. We didn't have the time.

And yet we have time in this Congress and in our sister Committee to have five hearings on gay marriage, which is admittedly an important issue, but still we don't have time to oversee Abu Ghraib. We don't have time to oversee the failure to find weapons of mass destruction. We don't have time to oversee whether the Medicare actuary was threatened with being fired if he told Con-

gress what the Medicare bill would cost. We don't have time to oversee any of these things, but we will have time for more hearings on gay marriage. Where is the sense of proportion?

And I find it ironic that, while we are so diligent about overseeing one of the branches of Government, the judiciary—we are constantly critical of the judiciary. We want to take away their jurisdiction if we don't like their decisions. We pass resolutions condemning the judiciary. We are willing to look into the conduct of specific judges who have the temerity to actually testify before Congress. And we go back and peruse their sentencing records if we don't like what they have to say. We have time for that kind of oversight of the judicial branch but no time for oversight of the Executive Branch. I don't think we deserve a gold star for that. I don't think we are doing our job.

It is one thing to give deference to the executive, and no one can criticize the majority for being deferential, but at some point, the deference approaches the edge of abdication. And in several areas, I think we are abdicating. We have abdicated to the executive all power to determine whether they can detain an American indefinitely without access to an attorney or judicial review. We are abdicating whether we should look into the oversight of what took place at Abu Ghraib and the investigations of Abu Ghraib. And I think that we are really deliberately, consciously, effectively ceding our authority to the executive. I don't think that is what Congress ought to be doing.

I think, frankly, we have overstepped our bounds vis-a-vis the judiciary. In undermining the judiciary, we undermine ourselves. But by providing no effective oversight of the executive, I think we also undermine our institutional role. And for me, it gives tangible evidence to the dangers inherent in one-party rule. And I would hope that we would think on our obligation, our historic obligation in this House. And I join my colleagues in support of the resolution and in opposition to a recommendation adverse to its passage and I yield back.

Chairman HYDE. Chair recognizes himself for 3 minutes.

You know, it is not that we have no time to investigate. That is hardly true. No one has said we don't have time.

The problem is we are engaged in overkill. There are investigations upon investigations upon investigations. There is an old saying, everything has been said, but everyone hasn't said it. Everything is being investigated, but everybody hasn't investigated it yet. And we all are amateur prosecutors. You can overdo something. The time and the personnel that this requires are from Defense, from Justice, from State. You compound that by having six investigations, plus the Schlesinger commission.

If you are serious, then don't get in the way of the investigations that are going on and let them do their job. Otherwise, one suspects there is a hint, a taint of politics in all of this. I am for every investigation that one can conceive of, but I am not for investigations piled upon investigations upon investigations.

The House Armed Services Committee has primary jurisdiction. They are doing it. Just 2 days ago the Intelligence Committee held a hearing in the House. This is being heard to death and will continue. And as far as this resolution is concerned, I am for giving

you everything you want that is within the State Department's purview. And when we get there, we will be happy to do that. I will buy you a banana split if you come within 10 miles of that report, and I know you won't. It will sit there, and nobody will look at, but you will demand a blizzard of papers.

Mr. King of New York?

Mr. KING. Mr. Chairman, actually, I just want to respond briefly to a point made by my good friend from California, Mr. Schiff.

On the State of the Union, I would just suggest you read the British report put out yesterday by Lord Butler who said the 16 words in the State of the Union were entirely valid and credible, and that was also sustained in last week's Senate Intelligence report.

Mr. SCHIFF. Would the gentleman yield?

Mr. KING. Sure.

Mr. SCHIFF. I would be delighted to consider the British report. I would like to see if we can develop one of our own in this Committee.

And in deference to the Chairman, I can understand not wanting investigations piled on investigations, but one in this Committee would be nice.

Mr. KING. Perhaps you and I can do our own. I refer you to section 499 of the Butler report.

Chairman HYDE. Does any majority Member wish to be recognized to strike the last word?

If not, Mr. Meeks is recognized.

Mr. MEEKS. Thank you, Mr. Chairman, and again, I thought as the camera of history is rolling upon us as we speak, the rest of the world is looking at us. Our credibility is at stake, and we talk about democracy and how it is good, and we try to strengthen other legislative institutions and talk about their independence and how they should not be so dependent upon the Executive Branches or one particular President and we have to realize that the underpinnings of our democracy are our legislative bodies.

And indeed, as I believe as this great Nation was set up, it was set up so there could be different roles by the Executive Branch and the judiciary and legislative. So I think it is our responsibility, if you will, that we must conduct our investigations, because we are called the People's House. We are representatives of the people. And the people have elected us and depend upon us to look at matters that are very important to them.

Now we have done investigations in this matter of the executive in the prior—in the Clinton Administration, of basically personal matters. This is a matter that is really important to the state of the Nation and our reputation with others abroad.

Now, you indicate that there have been investigations on top of investigations going on, and I guess that is referring to investigations by the Defense Department, by the military and by the Justice Department. But that is just part of the problem, because these separate investigations do not have a coherent framework. They are being done in a piece-meal manner which may not allow us to get to the bottom of this matter.

Moreover these investigations have not been without their own problems. For example, the investigations of the activities of mili-

tary intelligence officers was first undertaken by Major General Fay. He was recently replaced by another general who could explore issues further up the chain of command. This has not sparked any confidence.

Furthermore, there remains some unanswered questions on the role of our civilian leadership. For example, I understand that in response to inquiry why he asked for General Miller to look at the Iraqi detention facilities, he responded that he did not request General Miller to come. This begs the question of who did what and why. And since General Miller's report, which was criticized by other generals, is seen by many as to be the catalyst for the detainee abuses, this is a critical issue that, as far as I am aware, has not been investigated at all by anyone.

And even if there are investigations, this should not prevent us from investigating. I also sit on the Financial Services Committee. And at that time, there were investigations on top of investigations by the SEC and others, but yet we still investigated the Enron scandal while the SEC was investigating. This is not something that is precedent setting. It is something we do as Members of the House of Representatives as part of the People's House so we can make sure that the people of America know that we are taking our job seriously and our responsibility and, also, that as the cameras of history continue to roll that, when people begin to study what has taken place today, we will see in the history books that we in fact did our job in trying to protect the integrity of America.

I am so concerned about those great men and women that we have in those uniforms that are serving their country everyday. And the only way we can make sure we keep them above the fray is by doing a thorough investigation because it is like, in any other profession, you want to make sure you root what was wrong, what went wrong, how it went wrong. That is why it is very important for us to pass this resolution today so that we make sure we are doing our job and taking care of our responsibilities, so that as our children and children's children, as they look at us in history, they know that we did not idly sit on our hands and accept what someone else had to say.

And I yield back.

Chairman HYDE. Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chairman.

I was going to get a gold star, but I have some questions that I would like to pose. I certainly agree with some of my colleagues, especially my colleague Adam Schiff. Apparently, there has been a number of critical documents that have not been provided. My understanding is that we received a copy of a letter, and I find it in my file stating that we will have access to the report on Iraq.

However, I don't believe that it mentions the request from ICRC about Afghanistan or Guantanamo. Also, what about the records of when the Government received complaints from the Independent Afghan Human Rights Committee and the Iraq NGOs? What were the responses to these organizations and to ICRC? None of these issues have been included in the letter that has been offered.

I am concerned about the conditions under which these materials were provided. I understand that these documents were made available to the Armed Forces for less than 48 hours. I would like

someone to answer the questions about why there was no offer on the Iraq or the Guantanamo release of papers to this Committee as requested.

Chairman HYDE. Would the gentlelady yield?

Mrs. NAPOLITANO. Yes, I would.

Chairman HYDE. I am informed there was an oversight on the letter, and it should include the Red Cross reports, and they will be made available as soon as they are available to us, which is, I am told, next week—is that correct?

So the gentlelady is correct, but they are included.

Mrs. NAPOLITANO. Thank you for the clarification.

I really feel that if we are going to get a true picture of what has been happening with the prisoners and some of the issues that have been brought before this Committee, that we do a review and be sure the abuses don't happen in the future.

Thank you, Mr. Chairman. I yield back.

Chairman HYDE. Ms. McCollum, do you wish to make a statement?

Ms. MCCOLLUM. Mr. Chairman, I will just enter my statement along with an attachment on a CIA article.

[The prepared statement of Ms. McCollum follows:]

PREPARED STATEMENT OF THE HONORABLE BETTY MCCOLLUM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. Chairman:

I support H Res 699 and I encourage my colleagues to vote against any effort to report this legislation unfavorably.

In the wake of abuse at Abu Ghraib, one would think the Administration would be looking for every possible opportunity to show the world that the United States is committed to openness and human rights. Unfortunately, the necessity of this legislation before us shows the Administration has no interest in doing so.

The Bush Administration's refusal to share documents in its possession with Congress regarding the abuse at Abu Ghraib is, in my opinion, a serious mistake. Actions by the Administration to withhold information from the American people only points to complicity. It gives those who look favorably upon the United States a reason to doubt our word; and it begs the question: who is really to blame for these terrible abuses?

Unfortunately, the detainee scandal continues. Just this week, the ICRC stated that the Administration is hiding detainees in lockups across the globe. According to an article in the Washington Post, "Terrorism suspects reported by the FBI as captured have never turned up in detention centers, and the United States has failed to reply to (ICRC) demands for a list of everyone it is holding". At this time, I ask unanimous consent to insert in the record of this hearing a recent Washington Post editorial on this specific subject.

This action by the Administration, on top of the abuse scandals that have engulfed our nation and our world, only digs the hole deeper. People around the world want to trust U.S. leadership and they want to believe our President's words, but like many Americans, they feel deceived. The torture at Abu Ghraib, the absence of weapons of mass destruction and the ever changing justifications that led us to war in Iraq have shattered our nation's international credibility. It is time for the Bush Administration to promote the same democratic ideals at home as we do abroad.

Last month, I, along with 12 of my colleagues, offered one way to improve our international credibility: We asked the President to invite the U.N. Special Rapporteur on Torture to investigate our military prison facilities in Iraq, Afghanistan and Guantanamo Bay, Cuba. I believe the U.N. Special Rapporteur on Torture can provide the unquestionable level of transparency required to address unanswered questions and restore U.S. credibility. At this time, I also ask unanimous consent to insert a copy of this letter into the record of the hearing.

We have not heard the full truth from this Administration—there is still more to be told.

Again, I urge my colleagues to support this legislation and encourage my colleagues to do the same.

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THE CIA'S PRISONERS

*The Washington Post*  
Thursday, July 15, 2004; Page A20

FOR DECADES the United States led the denunciation of despots whose enemies “disappear”—vanish into official custody, with no accounting for their whereabouts or treatment, no notification of their families and sometimes, no acknowledgement that they are being held. Now that same term is being applied to prisoners held by the Bush administration in the war on terrorism. According to the International Red Cross, a number of people apparently in U.S. custody are unaccounted for. Most are believed to be held by the CIA in secret facilities outside the United States. Contrary to the Geneva Conventions, the detainees have never been visited by the Red Cross; contrary to U.S. and international law, some reportedly have been subjected to interrogation techniques that most legal authorities regard as torture. According to the independent group Human Rights Watch, this exceptional practice is “perhaps unprecedented in U.S. history.” Like the Pentagon’s mishandling of Iraqi detainees, it cries out for congressional review and reform.

At least a dozen of the CIA detainees are senior figures in the al Qaeda organization, such as Khalid Sheikh Mohammed, an alleged organizer of the attacks of Sept. 11, 2001, and Abu Zubaida, the group’s operations chief. Few question their status as dangerous enemy combatants or the need to interrogate them about al Qaeda’s networks and plans for attacks—and no one suggests that they have been murdered, like many of the “disappeared” in other countries. But some of these men have been held incommunicado since before April 2002, or long past the time when urgent questioning or strict seclusion might have been necessary. Yet still the administration refuses to reveal where they are or allow visits by the Red Cross—something the United States often has advocated for prisoners elsewhere in the world, including other terrorists. The White House reportedly has exempted the CIA’s prisoners from the reviews that have been granted to detainees held at the Guantanamo Bay, Cuba, prison. And it has not disclosed the interrogation techniques approved for use by the CIA, though it has released those for Guantanamo.

What is known, mostly through leaks to the media, is that several of the CIA’s detainees probably have been tortured—and that a controversial Justice Department opinion defending such abuse was written after the fact to justify the activity. According to reports in *The Post*, pain medication for Abu Zubaida, who suffered from a gunshot wound in the groin, was manipulated to obtain his cooperation, while Khalid Sheikh Mohammed was subjected to “water boarding,” which causes the sensation of drowning. Notwithstanding the Justice Department opinion, parts of which recently were repudiated by the White House, U.S. personnel responsible for such treatment may be guilty of violating the international Convention Against Torture and U.S. laws related to it.

Nor has the CIA’s illegal behavior been limited to senior al Qaeda militants. The agency has been responsible for interrogating suspects in both Afghanistan and Iraq, and it is believed to have held a number in secret detention facilities. According to official reports, the identities of several in Iraq were deliberately concealed from the Red Cross, a violation of the Geneva Conventions. At least two detainees have died while being interrogated by CIA personnel. One CIA contractor has been charged with assault by the Justice Department in the case of one of the deaths, and at least two other cases are reportedly under investigation. But no higher-ranking CIA officials have been held accountable for the abuses or the decisions that led to them, even though it is now known that former CIA director George J. Tenet was directly involved in the “ghost detainee” cases in Iraq.

The Pentagon and Congress are investigating the Army’s handling of foreign detainees; though they are slow and inadequate, these probes contrast with the almost complete absence of scrutiny of the CIA’s activity. This failure of oversight must be corrected. Though the United States is at war, it cannot be acceptable to hold enemy combatants indefinitely in secret prisons, with no external review or humanitarian oversight of any kind. Congress, or the courts, must step in to correct what appears to be a systematic violation of international law—and fundamental American values.



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

May 21, 2004

The Honorable George W. Bush  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. President:

We are writing to urge you to invite the United Nations Special Rapporteur on Torture, Dr. Theo van Boven, to conduct a full and impartial investigation into the United States military intelligence and interrogation practices within U.S. military prisons in Iraq, Afghanistan and Guantanamo Bay, Cuba.

We fully support our American military men and women serving in Iraq. Their honorable service to our nation is unquestionable and they and their families deserve our nation's full support. Unfortunately, the torture and human rights abuses perpetrated in Iraq have dishonored the service of our troops and have placed their lives and the safety of all Americans working in the region at risk.

In January 2004, the United Nations Special Rapporteur's on Torture and Right to Health submitted a request to the U.S. government asking to visit prison facilities in Guantanamo Bay. To this date, they have not received a response. **Now is the time to respond affirmatively to this request and to further allow the U.N. investigatory access to Iraq and Afghanistan.** Any investigation performed solely by the U.S. government risks credibility by the international community, especially in the Arab world. If indeed the documented abuses at Abu Ghraib prison were the fault of only a few individuals, the U.N. Special Rapporteur on Torture will find this and report it with credibility. If the torture is a more systemic problem, the Special Rapporteur will identify this as well and can provide the information and counsel needed to break the cycle and stop the torture.


As the U.S. seeks a new U.N. Security Council resolution encouraging greater international participation in our efforts in Iraq, demonstrating our faith in the U.N. system of investigation would go a great distance toward achieving this resolution's passage. Allowing the U.N. to conduct an independent investigation into U.S. practices in Iraq, Afghanistan, Guantanamo and elsewhere is also a critical step in the restoration of our credibility around the world.




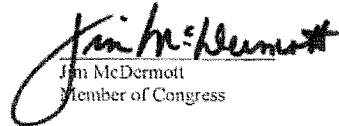
We must maintain the moral authority which sustains American troops during their dangerous service. This is the foundation of our democracy and the legacy we as a nation have a duty to uphold.

Again, Mr. President, we urge you to invite the U.N. Special Rapporteur on Torture to conduct an independent investigation into U.S. intelligence and interrogation techniques within U.S. military prisons in Iraq, Afghanistan and Guantanamo Bay.

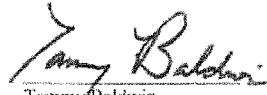
Sincerely,


  
Betty McCollum  
Member of Congress

  
Earl Blumenauer  
Member of Congress

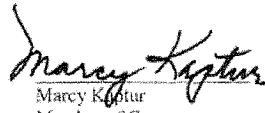
  
Jim McDermott  
Member of Congress

  
Barbara Lee  
Member of Congress

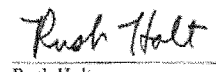
  
Tammy Baldwin  
Member of Congress

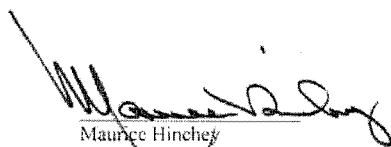
  
Tom Allen  
Member of Congress

  
Alice Hastings  
Member of Congress

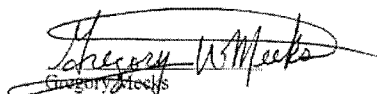
  
Marcy Kaptur  
Member of Congress

  
Neil Abercrombie  
Member of Congress


  
Rush Holt  
Member of Congress



Maurice Hinchey  
Member of Congress



Gregory Meeks  
Member of Congress



Sherrod Brown  
Member of Congress

cc: The Honorable Donald Rumsfeld, Secretary of Defense  
The Honorable Colin Powell, Secretary of State

Chairman HYDE. Mr. Chandler.

Well, the question occurs on the motion to report the resolution H. Res. 699 adversely. I won't waste time with a voice vote. We will go right to a rollcall.

Ms. RUSH. Mr. Leach?

[No Response.]

Ms. RUSH. Mr. Bereuter?

Mr. BEREUTER. Aye.

Ms. RUSH. Mr. Bereuter votes yes. Mr. Smith from New Jersey?

Mr. SMITH OF NEW JERSEY. Yes.

Ms. RUSH. Mr. Smith of New Jersey votes yes. Mr. Burton?

Mr. BURTON. Yes.

Ms. RUSH. Mr. Burton votes yes. Mr. Gallegly?

[No Response.]

Ms. RUSH. Ms. Ros-Lehtinen?

Ms. ROS-LEHTINEN. Yes.

Ms. RUSH. Ms. Ros-Lehtinen votes yes. Mr. Ballenger?

Mr. BALLENGER. Yes.

Ms. RUSH. Mr. Ballenger votes yes. Mr. Rohrabacher?

Mr. ROHRABACHER. Yes.

Ms. RUSH. Mr. Rohrabacher votes yes. Mr. Royce?

Mr. ROYCE. Yes.

Ms. RUSH. Mr. Royce votes yes. Mr. King?

Mr. KING. Yes.

Ms. RUSH. Mr. King votes yes. Mr. Chabot?

Mr. CHABOT. Yes.

Ms. RUSH. Mr. Chabot votes yes. Mr. Houghton?

Mr. HOUGHTON. Yes.

Ms. RUSH. Mr. Houghton votes yes. Mr. McHugh?

[No Response.]

Ms. RUSH. Mr. Blunt?

[No Response.]

Ms. RUSH. Mr. Tancredo?

Mr. TANCREDO. Aye.

Ms. RUSH. Mr. Tancredo votes yes. Mr. Paul?

[No Response.]

Ms. RUSH. Mr. Smith of Michigan?

Mr. SMITH OF MICHIGAN. Yes.

Ms. RUSH. Mr. Smith of Michigan votes yes. Mr. Pitts?

Mr. PITTS. Yes.

Ms. RUSH. Mr. Pitts votes yes. Mr. Flake?

Mr. FLAKE. Yes.

Ms. RUSH. Mr. Flake votes yes. Mrs. Davis?

[No Response.]

Ms. RUSH. Mr. Green?

Mr. GREEN. Yes.

Ms. RUSH. Mr. Green votes yes. Mr. Weller?

Mr. WELLER. Aye.

Ms. RUSH. Mr. Weller votes yes. Mr. Pence?

[No Response.]

Ms. RUSH. Mr. McCotter.

Mr. MCCOTTER. Yes.

Ms. RUSH. Mr. McCotter votes yes. Ms. Harris?

Ms. HARRIS. Yes.

Ms. RUSH. Ms. Harris votes yes. Mr. Lantos?  
 Mr. LANTOS. No.  
 Ms. RUSH. Mr. Lantos votes no. Mr. Berman?  
 Mr. BERMAN. No.  
 Ms. RUSH. Mr. Berman votes no. Mr. Ackerman?  
 Mr. ACKERMAN. No.  
 Ms. RUSH. Mr. Ackerman votes no. Mr. Faleomavaega?  
 [No Response.]  
 Ms. RUSH. Mr. Payne?  
 [No Response.]  
 Ms. RUSH. Mr. Menendez?  
 Mr. MENENDEZ. No.  
 Ms. RUSH. Mr. Menendez votes no. Mr. Brown?  
 [No Response.]  
 Ms. RUSH. Mr. Sherman?  
 Mr. SHERMAN. How am I recorded?  
 Ms. RUSH. You are not recorded.  
 Mr. SHERMAN. Please record me as a no.  
 Ms. RUSH. Mr. Sherman votes no. Mr. Wexler?  
 Mr. WEXLER. No.  
 Ms. RUSH. Mr. Wexler votes no? Mr. Engel?  
 Mr. ENGEL. No.  
 Ms. RUSH. Mr. Engel votes no. Mr. Delahunt?  
 [No Response.]  
 Ms. RUSH. Mr. Meeks?  
 Mr. MEEKS. No.  
 Ms. RUSH. Mr. Meeks votes no. Ms. Lee?  
 Ms. LEE. No.  
 Ms. RUSH. Ms. Lee votes no. Mr. Crowley?  
 Mr. CROWLEY. No.  
 Ms. RUSH. Mr. Crowley votes no. Mr. Hoeffel?  
 [No Response.]  
 Ms. RUSH. Mr. Blumenauer?  
 Mr. BLUMENAUER. No.  
 Ms. RUSH. Mr. Blumenauer votes no. Ms. Berkley?  
 Ms. BERKLEY. No.  
 Ms. RUSH. Ms. Berkley votes no. Mrs. Napolitano?  
 Mrs. NAPOLITANO. No.  
 Ms. RUSH. Mrs. Napolitano votes no. Mr. Schiff?  
 Mr. SCHIFF. No.  
 Ms. RUSH. Mr. Schiff votes no. Ms. Watson?  
 [No Response.]  
 Ms. RUSH. Mr. Smith of Washington?  
 Mr. SMITH OF WASHINGTON. No.  
 Ms. RUSH. Mr. Smith of Washington votes no. Ms. McCollum?  
 Ms. MCCOLLUM. No.  
 Ms. RUSH. Ms. McCollum votes no. Mr. Chandler?  
 Mr. CHANDLER. No.  
 Ms. RUSH. Mr. Chandler votes not. Chairman Hyde?  
 Chairman HYDE. Yes.  
 Ms. RUSH. Chairman Hyde votes yes.  
 Chairman HYDE. Mr. McHugh?  
 Mr. MCHUGH. How am I recorded?  
 Ms. RUSH. You are not recorded.

Mr. MCHUGH. Aye.  
Ms. RUSH. Mr. McHugh votes yes.  
Chairman HYDE. Mr. Pence?  
Mr. PENCE. Yes.  
Ms. RUSH. Mr. Pence votes yes.  
Chairman HYDE. Mr. Gallegly?  
Mr. GALLEGLY. Aye.  
Ms. RUSH. Mr. Gallegly votes yes.  
Chairman HYDE. Mrs. Davis?  
Mrs. JO ANN DAVIS OF VIRGINIA. How am I recorded?  
Ms. RUSH. You are not recorded.  
Mr. JO ANN DAVIS OF VIRGINIA. Yes.  
Ms. RUSH. Mrs. Davis votes yes.  
Chairman HYDE. Clerk will report on this vote.  
Ms. RUSH. There are 23 ayes and 17 noes.  
Chairman HYDE. And the ayes have it, and the motion to report  
adversely— Mr. Hoeffel?  
Mr. HOFFFEL. No vote.  
Chairman HYDE. And Mr. Delahunt?  
Mr. DELAHUNT. No.  
Chairman HYDE. Would you give me the count again?  
Ms. RUSH. 23 ayes and 19 noes.  
Chairman HYDE. And the ayes have it, and the motion to report  
adversely is adopted, and the Committee is adjourned with the  
thanks of the Chair.  
[Whereupon, at 5:15 p.m., the Committee was adjourned.]



## A P P E N D I X

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### MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE NICK SMITH, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF MICHIGAN

Today we are considering a resolution that would require the State Department to turn over documents to Congress concerning Abu Ghraib. This approach does not take proper account of how we got here today. All the reports about what happened there come from military investigations and the report of the International Committee of the Red Cross (ICRC). Seven soldiers have been charged under military justice, and one has pleaded guilty. Today, there are ongoing criminal military investigations involving abuses at Abu Ghraib. There are 6 major investigations, including one that asks whether these investigations are adequate. This administration is clearly responding and this Congress should start by examining the results of ongoing investigations instead of passing partisan resolutions sponsored only by Democrats. The resolution that we are considering today does not contribute to the proper oversight we all want.

The resolution is over-reaching and would require more documents than appropriate to be released. Many documents have already been released. The Secretary of Defense has committed to providing a large number of documents. The Taguba report is available to the Committee. The ICRC is providing its report to the Committee. There have been numerous briefings and six hearings. Congress is clearly engaged on this issue in a bipartisan way.

As a former Intelligence officer, I suggest Mr. Chairman that in a war environment it is difficult to know the best way to interrogate prisoners who know of past and future planning to kill our soldiers. In Abu Ghraib soldiers violated procedure and apparently committed crimes on their own. The detainees were not being interrogated. Another soldier realized that what was happening was wrong, reported it, and now we have plenty of investigations. The administration has responded admirably. This resolution would serve little purpose beyond turning a simple but offensive criminal matter in Iraq into a political matter in Washington. I urge my colleagues to report this resolution adversely.

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PREPARED STATEMENT OF THE HONORABLE DIANE WATSON, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, it goes without saying that every member of this Committee was shocked, saddened, and outraged by the graphic reports of the abuse of prisoners in Iraq and Afghanistan in early May of this year. However, in the intervening two months only the Senate Armed Services Committee had embarked on any kind of sustained inquiry of the prison scandal. The House has remained mum on the subject. In fact, I recall that Majority Leader De Lay's most sustained response to the scandal was to admonish Republican members to tone down their criticism.

The House of Representatives has been derelict in its duties and responsibilities to investigate this matter and, Mr. Chairman, I submit that the position of the Republican leadership is simply unacceptable. The grotesque images have been broadcast and rebroadcast to the world and have seriously undermined the ability of this nation to promote human rights around the world. Moreover, the images have directly undermined our ability to credibly demand that U.S. prisoners be treated humanely. The events have further contributed to our nation's lack of respect and standing not only in the Middle East, but even among our European allies.

Mr. Chairman, it is my suspicion—and I suspect it is the suspicion of many of those who will vote against this resolution of inquiry—that the Iraq prison scandal

was not just the work of a few “bad apples” among the lower ranks of our military. We have learned that the ICRC and other NGOs had issued credible warnings about widespread prisoner abuses well before the scandal broke. We have also learned that the White House’s Chief Counsel drafted a memorandum to justify the use of torture in certain instances. While the White House now disavows the memorandum, it nonetheless is indicative of a certain mind set at the highest levels of government.

If we are to regain our nation’s respect in the court of world opinion, it is necessary for this body to undertake a complete, thorough inquiry of this matter. I hope that all members will step up to their constitutional responsibilities and vote against the Chairman’s motion to report the resolution unfavorably.

